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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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## **Distressed Unit Appeal Board Meeting Memorandum April 16, 2014**

**Call to Order:** The meeting of the Distressed Unit Appeal Board (DUAB) was held on Wednesday, April 16, 2014 from 9:00 A.M.-9:58 A.M. The meeting was held at One North Capitol Avenue, 9<sup>th</sup> floor, Indianapolis, IN 46204. Board members in attendance were Lisa Acobert, Senator Ed Charbonneau, Paul Joyce, Andrew Kossack, and Micah Vincent. Staff in attendance were Catherine Wolter, Department of Local Government Finance (DLGF) General Counsel, and Mike Duffy, DLGF staff attorney. Other attendees included James Shanahan, Jimmy Shanahan, Bill Gall, George Letz, and Belvia Gray.

**Discussion:** The April 16, 2014 meeting of the DUAB was called to order by Board Chair Andrew Kossack. Mr. Kossack welcomed the Board and assembled company, noted the presence of a quorum, and entertained a motion to approve minutes from the DUAB's September 24 and October 1, 2013 meetings.

**Motion:** Sen. Charbonneau moved to approve the minutes as submitted. Micah Vincent seconded the motion.

**Vote:** Mr. Vincent voted yes. Mr. Kossack voted yes. Sen. Charbonneau voted yes. Mr. Joyce voted yes. Ms. Acobert voted yes. The motion carried by a vote of 5-0.

**Discussion of Meeting Focus:** Mr. Kossack discussed IC 5-1-5-2.5 and explained that certain school corporations are automatically eligible to restructure debt and that DUAB's role in those cases is to provide a non-binding review. Mr. Kossack stated that at this meeting, MSD Boone Township (Boone) would have an opportunity to present its petition and Board members would be able to pose questions. The Board would, at a later date, issue a written opinion. Mr. Kossack then opened the floor to Boone.

**Discussion:** George Letz, Boone superintendant, asked Belvia Gray, Boone's financial consultant, to present background information concerning Boone.

Ms. Gray stated that Boone's restructuring has pushed the repayment of its bonds back from 2027 to 2037. The bonds in question were originally issued in 2004 and were refunded within 90 days of the call date, making the refinancing as economical as possible. She stated that the school was authorized to restructure up to 50% of its outstanding bonds, so it restructured \$7.1 million in bonds in October, 2013 (acquiring bank-qualified bonds) and refunded the remaining bonds in January, 2014. Ms. Gray explained that for the restructured bonds, the interest rate was 4.49%. Moreover, included in the restructuring was a repayment of a BAN. She stated that included in the 2013 restructure and refunding was \$1.5 million of bonds for which Boone had previously received approval to issue.

Mr. Letz then offered to present his comments, and Mr. Kossack consented.

Mr. Letz discussed several hand-outs he distributed to the Board. He explained that there is a very low assessed valuation in Boone's district, which causes high tax rates, and that over the past four years, Boone has lost \$1,584,821 in levies for its four property tax-supported funds. He said that this is one of the reasons Boone restructured its 2004 bonds, which were used to build a new high school in 2005.

Mr. Letz stated that in 2013, an operating referendum was presented to taxpayers and failed by four votes, but that Boone is currently in the process of presenting another operating referendum for 2014. He explained that before and after it lost the referendum, Boone had been cutting programs and staff.

Mr. Letz asserted that Boone is ranked fifth among the school districts in Lake and Porter Counties that are suffering the most from circuit breaker losses, but that Boone's high school had just been awarded, for the second time in recent years, a four-star status.

Mr. Letz explained that Boone went through AdvancEd Accreditation, which is a rigorous process. He emphasized that despite Boone's financial hardships, it has done well academically.

Mr. Letz alleged that Boone collected only 87% of its tax collections in 2013, which is due in large part to the effect of the circuit breakers.

Mr. Letz and Ms. Gray then discussed a hand-out, which Mr. Letz asked that she explain.

Ms. Gray asserted that the total gross loss to do the restructuring was about \$3.9 million, which was as efficient as possible. She stated that the white bars in the hand-out represent the amount of the increment, which is the difference between the original payments on the 2004 bonds and the restructured payments. She explained that these are dollars Boone will be able to use to replace a portion of the circuit breaker loss Boone is experiencing, and that the increment is about \$480,000.

Mr. Vincent asked Ms. Gray if the \$3.9 million includes the annual increment.

Ms. Gray responded that it does.

Mr. Vincent then asked Ms. Gray if the total tax increase over this restructuring will be \$3.9 million or \$3.9 million plus the increment. Mr. Vincent elaborated on his question by asking what the tax impact will be as a result of the restructuring compared to where the taxes would be absent the restructuring.

Ms. Gray stated that this is a hard question to answer because Boone would have done the refunding.

Jimmy Shanahan, bond counsel, stated that the only additional cost is the additional interest paid by pushing the debt out ten years because the debt could have been refunded under existing law, but it would have been limited to the term of the refunded bonds. He asserted that because of the legislative change, Boone has an additional ten years to extend the debt.

Mr. Vincent responded by saying that the additional increment where a school can continue to raise the same debt service rate but move that increment into other funds would not have existed under the refunding situation, so that is an additional tax.

Ms. Gray responded that this is true, but Boone would have done a refunding regardless, and that had Boone gone with a traditional refunding, it could have taken the savings over a few years, which could have translated into lower circuit breaker losses, but it is not a dollar-for-dollar decrease.

Mr. Vincent stated that this is something the Board could look into. He explained that although there is some additional interest rate following restructuring, the hope is that some of those rates can be lowered. He asserted that although the applicable statute creates an increment that schools can move to other funds, which is a good thing for the schools, the tax rate remains higher for a longer period of time.

Mr. Vincent then thanked Boone for presenting the petition and coming before the Board. He introduced himself and congratulated Boone on its academic success. He then stated that Boone has the eighth-highest debt service rate of all school corporations in the state and asked what kinds of projects, other than the new high school, Boone has undertaken in recent years.

Mr. Letz explained that the high school was built before the tax caps were put into effect and before the recession. He said that Boone does not have a lot of money in its capital projects fund and has to rely on common school fund loans to keep up with technology.

Bill Gall, Educational Services Company, stated that Boone has three common school fund loans coming off in the next few years.

Mr. Letz explained that these loans coming off will help ease the debt burden, much of which is attributable to these loans. He went on to say that in 2009 Boone received a qualified school construction loan to redo its elementary school's heating and air conditioning. Boone also received a \$700,000 bond issue for technology in 2011 because the common school fund loans were not sufficient for Boone's technological needs.

Mr. Letz stated that normally Boone qualifies for and receives common school fund loans when it requests them. He said that Boone does not have any additional projects in the future.

Mr. Vincent asked if Boone's high school is at capacity.

Mr. Letz responded that it is not. He explained that Boone has about 85 students from outside its district and that Boone is landlocked, meaning it cannot bring any small industry into its district because property owners in Hebron will not sell land to businesses or companies. He said that the town has been trying unsuccessfully for years to bring in industry. In response, Boone has opened its borders and brings in 85 to 90 students each year. Boone is unsure whether those students will continue into the high school since Boone cannot offer some of the electives and programs bigger high schools offer.

Mr. Letz emphasized that if Boone has to start using general fund money to pay for things normally coming out of the capital projects fund because it cannot cover the tax caps for the next ten years with

this restructuring, things will get even worse. Boone anticipates losing \$527,000 to the tax caps in the coming year, which will not be covered by the \$478,000 increment.

Mr. Vincent asked what Boone's plans were for the increment.

Mr. Letz responded that it will be used for things like capital projects expenses, utilities, and insurance.

Mr. Kossack asked what is happening to Boone's enrollment.

Mr. Letz responded that the approximately 85 students coming in is Boone's only increase, and that there is very little internal growth because there are no homes being built in Hebron. Mr. Letz complained that the September and February timing for enrollment counts is unreliable for planning for the future. He said that while Boone has received good publicity about its test scores, the public may view Boone differently in light of its having to cut courses and teachers.

Mr. Kossack asked for clarification as to whether common school fund loans are structured as advances for tuition support, whether Boone would anticipate some increased general fund revenue going forward once those fall off the rolls, and when that would happen.

Mr. Letz responded that the loans are advances for tuition support and that Boone would expect increased general fund revenue once the loans come off.

Mr. Gall stated that Boone has four loans coming off, one in 2014, two in 2015, and one in 2017, with a total impact of \$203,000.

Ms. Gray explained that the common school fund loan payments are deducted from the tuition support, and Boone is able to levy in the debt service fund in order to reimburse the general fund for those payments.

Mr. Gall said that it is a wash, but the loans would be off the rolls.

Ms. Gray stated that the loans are still included in the debt service tax rate.

Mr. Kossack asked whether Boone had considered consolidating with neighboring schools.

Mr. Letz said that it has been discussed in the past and is something that is always out there, and that if Boone cannot provide the Core 40 courses or honors diplomas, something would have to be done. He mentioned that there are school corporations close to Boone on the north and south, which would be the logical choices, and he discussed the consolidation of East Porter School Corporation, which occurred several years ago. He stated that even with the restructuring, things will still be tough for Boone and Hebron.

Paul Joyce asked if Boone had any plans for dealing with this or if it is just pushing off today's cost for the future or hoping that property tax caps go away.

Mr. Letz responded that Boone does not expect tax caps to go away, but it has adopted a strict goal of spending only so much per month so that it does not have a deficit by December 31. Boone has made cuts and would continue to do so if the referendum fails. He said part of the difference will be made by what the legislature decides in terms of funding for schools. Consolidation might be an option, as is the referendum.

Mr. Joyce asked if Boone is self-insured.

Mr. Letz responded that the Porter County Trust provides insurance.

Mr. Joyce asked how this compares to Boone not being self-insured as far as long-term costs are concerned.

Mr. Letz said that if Boone was self-insured, it would be a disaster.

Mr. Gall explained that the increases over time have been rather modest, although Boone did hit a spike back in 2010 through 2012. The increase as a result of Boone's participation in the trust had been 3% and then spiked to 7%-10%, but it is now back down to 3%. The total increase in premiums over the past decade has been around \$348,000.

Mr. Joyce asked if Boone had looked into the State plan and he stated that in his experience, self-insurance costs more in the long run, and one catastrophic event can wipe out an entire self-insured fund.

Mr. Gall concurred.

Mr. Letz stated that Boone's consultant through the Porter County Trust is R.E. Sutton & Associates, who takes care of about 15 to 20 trusts in the state, and that the trust is doing well financially, but Boone is always looking at how it can do better. Boone is looking at offering two or three different plans to its members, including HSA plans.

Sen. Charbonneau stated that Boone's performance as a school district is outstanding and that he is glad Boone is a part of his district. He asked if Boone had a figure in mind as to what amount of money designated by the legislature would fix Boone's problem.

Mr. Letz responded that Boone has always felt that an increase of 3% or 4% would help and that with this increase, Boone would not need referenda. Basing funding on student enrollment is problematic because enrollment is very fluid.

Mr. Gall said that it would be nice to have the \$300 million reduced a few years ago pumped back into the formula, but he is not sure if there is a magic number. He stated that Boone has needs and has taken some real hits, and that providing additional revenue in the tuition support formula to recoup some of the monies lost would be very helpful.

Ms. Gray reiterated concerns about tying the funding formula to enrollment counts because schools make commitments in terms of salaries, but then funding is reduced because student enrollment declines. For the general fund, it is a tuition support issue, not a circuit breaker issue.

Sen. Charbonneau asked if this has happened to Boone yet.

Mr. Gall said not yet.

Ms. Gray stated that Boone has had 85 students come in, but there is some transience there.

Mr. Letz said enrollment could change in the future.

Mr. Joyce asked if Boone has ever had an operational review and whether Boone would oppose it.

Mr. Letz said Boone has not and that he would not be opposed to it.

Lisa Acobert asked if there was a change between the fall and spring count dates.

Mr. Letz said the number went up in February, which is unusual because normally the second count goes down.

Ms. Acobert asked if Boone has students who graduate early.

Mr. Letz responded that Boone has a few, but it's not really an issue. He stated that the high school only has around 350 students.

Ms. Acobert then asked if there were any public comments made at the public hearing on the refunding.

Mr. Gall said that it was published according to statute and the hearing was held and the resolution passed on July 9 with no negative comments made by the public during those hearings.

Mr. Letz said the ad was in the paper June 29, the hearing was July 9, and there was no remonstrance.

Mr. Vincent asked if Boone is impacted by TIF districts.

Mr. Letz responded that there is a TIF district in Hebron, but it does not impact Boone much at all.

Mr. Gall said it is a carve-out.

Mr. Vincent asked if Boone has a nonvoting member on the redevelopment commission.

Mr. Letz stated that this is how he knows Boone is having trouble getting landowners to sell property to people who would build light industry.

Mr. Vincent said that this can be a double-edged sword as it is good to bring in industries, but Boone would need to be careful as things go in.

Mr. Letz concurred, but said that until this happens, Boone will continually have a low assessed valuation and high tax rate.

Mr. Kossack asked if there were any additional questions from the Board. He commended Mr. Letz and thanked him for his patience. He explained that in the future the Board may be able to offer units assistance upfront.

Mr. Letz asked if schools looking to restructure their debt still come down to the Board in light of recent legislation.

Mr. Vincent explained that the restructuring now goes through a modified petition and remonstrance process rather than before the Board.

Mr. Letz asked whether a school still comes before the Board if it wants to borrow money from the rainy day fund.

Mr. Vincent responded yes.

Mr. Kossack stated that the Board would prepare some written feedback for Boone.

Several attendees associated with Boone left at this point as the Board turned to different business.

Mr. Kossack stated that the Board has had a chance to review the electronic meeting policy and that each member must participate physically in one meeting per calendar year. He asserted that this could be difficult, but the Board could call a meeting during session and have Sen. Charbonneau attend to satisfy this requirement. Mr. Kossack said he compared the proposed policy to the applicable law and was satisfied.

Sen. Charbonneau asked who would be an appropriate designee for him to be physically present.

Mr. Kossack responded that he was designated by the director of the Office of Management and Budget and that Mr. Joyce has a seat on the Board, but he could designate someone.

Mr. Joyce stated that the Legislative Council would designate someone in place of Senator Charbonneau.

Mr. Vincent stated that he believes only a legislator could be designated for Senator Charbonneau's seat.

Mr. Kossack then asked if there were any additional questions or comments and whether any member would move to approve the policy.

**Motion:** Senator Charbonneau moved to adopt the policy. Mr. Vincent seconded the motion.

**Vote:** Mr. Vincent voted yes. Mr. Kossack voted yes. Sen. Charbonneau voted yes. Mr. Joyce voted yes. Ms. Acobert voted yes. The motion carried by a vote of 5-0.

**Discussion:** Mr. Kossack then said he believed this was all the Board had for the day. He introduced Mr. Joyce and acknowledged Catherine Wolter's impending retirement.

Mr. Kossack stated that the Board had complied with the Open Door Law and that notice of the meeting was posted 48 hours in advance in accordance with that law.

Mr. Kossack then entertained a motion to adjourn.

**Motion:** Mr. Vincent moved to adjourn. Sen. Charbonneau seconded the motion.

**Vote:** Mr. Vincent voted yes. Mr. Kossack voted yes. Sen. Charbonneau voted yes. Mr. Joyce voted yes. Ms. Acobert voted yes. The motion carried by a vote of 5-0.

**Adjournment:** The proceedings were adjourned at 9:58 A.M.